



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

7/30/07

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

In re Application of:

CHERNG, TZYH-CHYANG, et al.

Serial No.: 09/160,991

Filed: September 25, 1998

Title: HOLE FORMING TOOL

DECISION ON PETITION TO
WITHDRAW FINALITY

This is a decision on the petition filed on Feb. 13, 2006 to withdraw the finality of the Office Action of June 6, 2006. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED as moot**.

In the petition the applicant requested a withdrawal of the finality of the Office action mailed on June 6, 2006. In support of his petition, the applicant argues that the March 2, 2006 amendment did not necessitate a final rejection under MPEP 706.07(b). On Aug. 14, 2006, the applicant filed an amendment after final and argued, *inter alia*, that the final rejection was premature. Subsequently, on Oct. 15, 2006, the applicant filed an RCE with a request of entry of amendment after the final rejection. On Nov. 20, 2006, the examiner withdrew the finality of the last Office action of June 6, 2006 and issued a new non-final Office action.

In view of the history, the relief the applicant requested, namely the withdrawal of the finality of the June 6, 2006 Office Action, has already occurred. A thorough review of the prosecution history of this application fails to reveal any mishandling of the application by the examiner. Delay in citation of new references in the Office actions is regretted. The request to assign the application to a different examiner will not be granted. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700